

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 96-9887

Priority: July 29, 2021

Maximum Diversion Rate: 0.07 CFS

This is to certify that

TREVOR ASHENBRENER 6306 S AUER ST SPOKANE WA 99223-8330 AND
SARAH ASHENBRENER 6306 S AUER ST SPOKANE WA 99223-8330

has applied for a permit to appropriate water from:

Source : LAKE PEND OREILLE

Tributary: PEND OREILLE RIVER

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
IRRIGATION	04/01 to 10/31	0.03 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS

Location of Point(s) of Diversion

LAKE PEND OREILLE L4 (NE¼ SW¼), Sec. 2, Twp 56N, Rge 01E, B.M. BONNER County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	01E	2									0.8								0.8

Right Acre Limit: 0.8

Total Acres: 0.8

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
56N	01E	2									X								

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2026**.
2. Subject to all prior water rights.
3. This right does not grant any right-of-way or easement across the land of another.
4. A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.
5. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
6. Domestic use is for 1 home. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
7. This right when combined with all other rights shall provide no more than 0.03 Cubic Feet per Second (CFS) per acre nor more than 3.0 Acre Feet (AF) annually per acre at the field headgate for irrigation of the place of use.
8. Place of use is located within, Lot 10-C, White Birch Subdivision.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 96-9887

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 4th day of October, 2021.



ADAM FREDERICK
Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

96-9887

This map depicts the IRRIGATION and DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- 01E
- Point of Diversion
 - Place Of Use Boundary
 - PLS Sections
 - Quarter Quarters
 - Taxlots

0 0.02 0.04 0.08 Miles



Tax parcel information provided by Bonner County.



IDAHO DEPARTMENT OF
WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene, ID 83815-7763
Phone: 208-762-2800 • Fax: 208-762-2819 • Email: northerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

October 07, 2021

SARAH ASHENBRENER
TREVOR ASHENBRENER
6306 S AUER ST
SPOKANE WA 99223-8330

RE: Permit No. 96-9887

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact the Northern Region Office at (208) 762-2800.

Sincerely,



Adam Frederick
Water Rights Supervisor

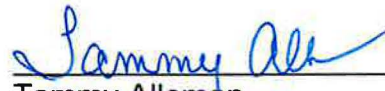
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 07, 2021, I served a true and correct copy of Permit to Appropriate Water No. 96-9887 by U.S. Mail, postage prepaid, to the following:

SARAH ASHENBRENER (Current Owner)
6306 S AUER ST
SPOKANE WA 99223-8330

TREVOR ASHENBRENER (Current Owner)
6306 S AUER ST
SPOKANE WA 99223-8330



Tammy Alleman
Administrative Assistant 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

M E M O R A N D U M

To: Water Right Application 96-9887

From: Adam Frederick

Date: 10/4/2021

Re: Application for a Permit to Appropriate Water within the State of Idaho.

An application for permit was received on July 29, 2021, in the name of John and/or Marilyn McDevitt. The system was described as two separate systems in which one was for the domestic use and one was for the irrigation use. Because the systems were separate and not interconnected, a new application for permit was submitted for domestic use on August 4, 2021. The original application was not corrected and left as is describing domestic and irrigation use.

The application will be carried forward to be permitted with the assumption that domestic use will be left off of 96-9887 at time of licensing because permit 96-9889 already covers the domestic portion.

RECEIVEDSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

SEP 29 2021

ASSIGNMENT OF APPLICATION FOR PERMIT

To change the ownership of an application for permit

IDWR / NORTH

I, John & Marilyn McDevitt, hereby assign to Trevor & Sarah Ashenbrener
Current applicant New applicant(s)
 of, 6306 S Auer Street Spokane, WA 99223
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Application for Permit No(s): 96-9887, 96-9889
 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s):

_____, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the application for permit assigned, listing the number of acres in each 40 acre
 subdivision, point of diversion location, and amount of the water in cubic feet per second.

Does the new applicant own the property at the:

Point of diversion? ☒ Yes ☐ NoPlace of use? ☒ Yes ☐ No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:

Dated this 29th day of September, 2021.

[Signature]
 Signature of current applicant

Title (if applicable)

Marilyn McDevitt
 Signature of current applicant

Title (if applicable)

State of Idaho)

County of Bonner)ss

On this 29th day of September, 2021, personally appeared before me the signer(s) of the above
 instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL



[Signature]
 Notary Public

My commission expires: Feb 22, 2025



RECEIVED

SEP 02 2021

IDWR / NORTH

IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Brad Little / Governor
Ed Schriever / Director

August 27, 2021

Ms. Tammy Alleman
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

REFERENCE: 96-9887 - McDevitt

Dear Tammy:

We have reviewed the above-named water right application from Lake Pend Oreille in Bonner County. The permit request is to pump 0.07 cfs for year round domestic purposes and irrigation of 0.8 acres of land during irrigation season. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on wildlife and wildlife habitat and how any adverse effects might be mitigated.

Lake Pend Oreille has been designated as critical habitat for bull trout by the United States Fish and Wildlife Service. Additionally westslope cutthroat trout, a species of concern in Idaho, can be found year round throughout the lake. In addition to these native salmonid species, Lake Pend Oreille is a popular fishing destination for anglers targeting Gerrard rainbow, kokanee, and a variety of warm water species.

The application does not mention screening. Idaho code 36-906 prohibits any person diverting water through a conduit from ... *taking water from any stream or lake in this state without first installing and maintaining a suitable screen or other device to prevent fish from entering therein* . We recommend a pipe diameter of 2.5" or less, screened with **not more than 0.25" mesh screen**, and an approach velocity of **not more than 0.5 feet per second** in order to protect juvenile fish from the proposed pump.

While this is a small request, we are concerned that the cumulative effects of diversions may negatively impact habitat for both native and introduced species.

Thank you for the opportunity to comment.

Sincerely,

Charles E. Corsi
Regional Supervisor

CEC:MH:lat

C: eFile M:\

Keeping Idaho's Wildlife Heritage

MEMORANDUM

September 01, 2021

Water Permit: 96-9887

Author: smaxey

Subject: No Overlap between 96-9887 & 96-9889

Applicants; John D. McDevitt and Marilyn K. McDevitt; submitted two separate Applications For Permit, to Northern Region. There are two Applications because the Applicants have two separate water systems to divert water from Lake Pend Oreille that are not physically connected together. It is not feasible, on the date the permits are being prepared, to divide the tax parcel into a separate Place of Use shape for each of the Water Rights.

Application (96-9887), received on 7/29/2021, employs a Point of diversion (POD) on the West side of the Applicant's dock. This POD connects to a water line that supplies water to a home and all Irrigation for the property at 1133 Red Fir Road (Bonner County parcel RP00715000010CA).

The second Application (96-9889), received on 8/04/2021, employs a Point of Diversion (POD) on the East side of the Applicant's dock. This POD connects to a water line that supplies water for Domestic use to a home at 1133 Red Fir Road (Bonner County parcel RP00715000010CA).

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Bonner)

Danielle Rukmshottel, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached

Application.
My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 19 day of August, 2021, and ending on the 26 day of August, 2021.

Danielle Rukmshottel

State of Idaho, county of Bonner ss.

On this 24 day of August, in the year of 2021, before me, Katrina George, Notary Public, personally appeared Danielle Rukmshottel known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

RECEIVED

SEP 02 2021

Katrina George
Notary Public
Residing at: Kootenai County

My Commission Expires 8/29/23



The following application(s) have been filed to appropriate the public waters of the State of Idaho:
95-18141
TRAVIS L LIVELY
ANTOINETTE V LIVELY
3036 E CAMBRIDGE DR
HAYDEN, ID 83835
Point of Diversion NENESE
S17 T54N R02W
ONNER County
Source SPRING
Tributary SINKS
Use: DOMESTIC

01/01 to 12/31
Total Diversion: 0.06 CFS
Date Filed: 07-30-2021
Place Of Use: DOMESTIC
T54N R02W S17 NESE

96-9887
JOHN P MCDEVITT
MARILYN K MCDEVITT
1133 RED FIR RD
HOPE, ID 83836-9769
Point of Diversion L4(NESW)
S2 T56N R01E
BONNER County
Source LAKE PEND OREILLE
Tributary PEND OREILLE RIVER
Use: DOMESTIC
01/01 to 12/31 0.04 CFS
Use: IRRIGATION
04/01 to 10/31 0.03 CFS
Total Diversion: 0.07 CFS
Date Filed: 07-29-2021
Place Of Use: DOMESTIC, IRRIGATION
T56N R01E S2 L4(NESW)
Total Acres: 0.8

96-9889
JOHN P MCDEVITT
MARILYN K MCDEVITT
1133 RED FIR RD
HOPE, ID 83836-9769
Point of Diversion L4(NESW)
S2 T56N R01E
BONNER County
Source LAKE PEND OREILLE
Tributary PEND OREILLE RIVER

ER
Use: DOMESTIC
01/01 to 12/31
Total Diversion: 0.04 CFS
Date Filed: 08-04-2021
Place Of Use: DOMESTIC
T56N R01E S2 L4(NESW)

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 9/7/2021. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
SNP LEGAL 8858
AD#478587
AUGUST 19, 26, 2021